BOOKS AND PERIODICALS.

THE SITUS OF DEBTS. — The doctrine advanced by Mr. Minor in his CONFLICT OF LAWS, that when a debtor and a creditor are domiciled in different states, the debt is taxable not only at the domicile of the creditor but at that of the debtor as well, has met the approval of a recent writer. *The Situs of Debts for Purpose of Taxation*, by E. S. Maloney, 7 Va. L. Reg. 606 (Jan., 1902). If such a tax is to be justified at all it must be as a tax on property. It does not profess to be a tax upon the debtor because whatever the debtor pays is to be deducted from the amount due. On the other hand, this cannot be taxation of the creditor, inasmuch as he is not within the jurisdiction of the taxing power. An inquiry thus arises as to what property situated within the state of the debtor's domicile may be thus subjected to taxation. Admittedly the debtor has no property in the debt. MINOR, CONFL. LAWS, § 123. But it is contended that the obligation to pay is property belonging to the creditor and the tax is thus defined as upon property of the creditor in the hands of the debtor.

To say that a debt has a situs either at the domicile of the creditor or at that of the debtor is obviously to state a fiction. A *chose in action* is in its nature incapable of location at any particular place. Field, J., in *State Tax on Foreign Held Bonds*, 15 Wall. 300. The fact that a creditor comes into a particular state does not give that state any real power or control over property which it did not have before. An illustration of this truth is found in the freedom of *choses in action* from execution at common law and in the fact that even under modern statutes the proceeding is purely equitable in its nature because jurisdiction over the person of the debtor is necessary to execution upon the debt. Again, if the tangible property from which the *chose in action* derives its value is situated without the jurisdiction, there is nothing which the state can seize and out of which taxes can be taken. Nor can it prevent any dealing whatsoever with that property by the state within which it is located, even though the *chose in action* be thereby rendered utterly worthless. The logical view seems to be that the right to tax in these cases arises not out of jurisdiction over property, but by reason of control over the person, and that the tax is not in reality a tax on property, but upon the person measured by property in the debt.

The conception of the obligation of the debtor as property in his own hands belonging to the creditor does not, in this view, aid Mr. Maloney's contention, inasmuch as the obligation exists no more in one place than in another. Moreover, it is not the duty of the debtor to pay, but rather the corresponding right to enforce that duty that may properly be defined as the creditor's property and this right cannot in any sense be said to be property in the hands of the debtor. It is contended, however, by Mr. Maloney that this right to sue is property situated within the state of the debtor's domicile because enforceable there. But the claim against the debtor being personal, he may be sued wherever found. All states hold themselves ready to enforce the obligation, and if this is the property taxed, it is taxable in all jurisdictions alike.

Accepting the well established principle that the power of taxation is limited to persons or things within the sovereignty, it is submitted that the right contended for does not exist. There is nothing at the domicile of the debtor to be taxed. The tax is not levied upon the debtor, the creditor is without the jurisdiction, and no property can be located within it. Whether courts have the power to declare such taxation invalid is another matter, but by the great weight of authority it has been so held as falling within the clause of the federal constitution which forbids impairing the obligation of contracts. COOLEY, TAXATION, 2d ed., 22; *State Tax on Foreign Held Bonds, supra; Murray* v. *Charleston*, 96 U. S. 432. The cases cited in support of Mr. Maloney's view will be found upon examination to deal with taxation upon business or earnings

and not upon obligations. *Michigan Cent. R. Co.* v. *Collector*, 100 U. S. 595; *U. S.* v. *Erie R. Co.*, 106 U. S. 327. As to the dictum in *Bridges* v. *Griffin*, 33 Ga. 113, see *Collins* v. *Miller*, 43 Ga. 336.

SELECT PLEAS, STARRS, AND OTHER RECORDS FROM THE ROLLS OF THE EXCHEQUER OF THE JEWS, A. D. 1220–1284. Edited for the Selden Society by J. M. Rigg. London: Bernard Quaritch. 1901. pp. lxi, 152. 4to.

This work is produced under the coöperation of the Selden Society and the Anglo-Jewish Historical Society — an economical arrangement which might well be repeated by these societies and imitated by others. The archives of the Exchequer of the Jews at the Public Record Office comprise two general classes: fiscal documents (account rolls, etc.) and plea rolls. The selections edited by Mr. Rigg, which are taken exclusively from the latter, throw light on the relations of the Jews to the king, the nobility, and the clergy, on the fiscal and judicial machinery of the Jewish Exchequer, and the law or custom of the Jewry. The Jews were regarded as royal property, and, like the forests, were under the jurisdiction of special royal justices. "The Exchequer of the Jews, though it had its own seal and separate staff of officers, was not so much a separate Court as a branch of the Great Exchequer, invested with a jurisdiction never very precisely defined, and which never became, though it tended gradually to become, exclusive of that of the King's Court. Its procedure did not differ materially from that of the Great Exchequer, except so far as it was modified by the Assisa Judaismi, of which the most important feature was the right of a Jew to trial by a panel *de medietate* when impleaded by a Christian upon a cause of action arising within the Jewry."

Mr. Rigg's volume is a valuable addition to the publications of the Selden Society. His Introduction gives a good account of the history of the Jews of England during the twelfth and thirteenth centuries, and his editorial work is scholarly. It is difficult, however, to ascertain what he has added to the sum of our knowledge; as he rarely refers in his footnotes to the investigations of other writers on this subject, many readers will carry away the erroneous impression that most of his conclusions are novel. On pp. xl–xli he prints a document which he says was first edited in 1896, but in fact it was published in 1888 in the Anglo-Jewish Exhibition Papers (Exchequer of the Jews, Appendix); the appendix of that essay also contains the articles touching the Jewry, printed by Mr. Rigg on pp. lv–lxi. C. G.

A TREATISE ON THE LAW OF ATTACHMENTS, GARNISHMENTS, JUDGMENTS, AND EXECUTIONS. By John R. Rood. Ann Arbor: George Wahr. 1901. pp. 183, 549. 8vo.

The law of remedies is the author's general subject in two previous books; one, a somewhat compendious text-book on garnishment solely for the practitioner, the other, a series of selected cases solely for the student. This latest, most comprehensive work is one fourth text, and the rest, a collection of cases, annotated, and an index. Much of the raw material used for the first two books must necessarily have entered as well into the present production, which, indeed, will probably supplant the earlier class-room manual. A more original mode of treatment has been adopted. The former plan was apparently to state the law in an available form; the declared purpose of the present work is to go further, to correlate propositions formerly treated as independent, to treat them all as far as possible as parts of a rational, consistent whole, and to discuss the relation of this subject, so unified, to other parts of the law that it touches. The